

1 February 10, 2023

2 COUNTY COURT : PUTNAM COUNTY

3 THE PEOPLE OF THE STATE OF NEW YORK

4 against

5 ANDREW KRIVAK, Defendant.

6 INDICTMENT NUMBER: 39-96

7 CONTINUATION OF JURY TRIAL

8 BEFORE: HON. ROBERT J. PRISCO,

9 Acting Supreme Court Justice

10 APPEARANCES: Same as previously noted.

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COURT CLERK: People of the State of New York

15

against Andrew Krivak, Indictment Number 39-96. Can we have

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appearances, please.

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MR. GLASSER: For the People, Larry Glasser. DA

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Tendy will be here in a minute.

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MR. MICHELEN: Oscar Michelen for Mr. Krivak.

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Mr. Krivak is present. Good morning, everybody.

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MS. NEWIRTH: Good morning. Karen Newirth for

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Mr. Krivak. Hilary Morman is with us.

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THE COURT: Good morning, counsel. Good morning,

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Mr. Krivak.

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THE DEFENDANT: Good morning, Judge.

1 involved in this trial, meaning the attorneys, the
2 Defendant, Mr. Krivak, any of the witnesses who have already
3 testified, any names that you have heard on the potential
4 witness list or myself.

5 You cannot post any information about this matter
6 or communicate by telephone, text messages, e-mail, internet
7 chat or chat rooms, blogs or social websites such as
8 Facebook, Instagram, TikTok, Snapchat or Twitter.

9 Ladies and gentlemen, I wish you a very pleasant,
10 long weekend. Thank you very much. 9:30 a.m. on Tuesday.

11 (Jury exits courtroom.)

12 THE COURT: During the break, you cannot discuss
13 your testimony with anyone, understood?

14 THE WITNESS: Yes.

15 THE COURT: Thank you, Judge.

16 MR. MICHELEN: What time should Mr. Leahy come
17 back?

18 THE COURT: 9:30.

19 Because I cannot get overtime authorization, I'm
20 just going to place on the record that I told counsel at our
21 last side bar, at 3:57 p.m., on this date, Mr. Ferrante
22 advised my law secretary, Ms. Gabay, that he was able to
23 meet with my client, meaning Mr. Santoro, at the jail
24 earlier today. At this point, he has indicated that he will
25 be invoking his Fifth Amendment right to remain silent if

1 called as a witness at trial. Thank you, Richard L.
2 Ferrante, Esq. That's the latest on that.

3 Secondly, I want to bring to everyone's attention
4 and expand on what I said at side bar, there was testimony
5 today involving Christopher York who was a former prosecutor
6 with the Putnam County District Attorney's Office.

7 Mr. York came to the chambers that I am using here
8 yesterday, on February 9. It was a surprise visit. A
9 member of the courthouse staff advised me that he was here
10 to say hello to me.

11 Mr. York and I worked together in the Westchester
12 County District Attorney's Office many, many years ago. I
13 was not anticipating Mr. York's visit, but he indicated that
14 he was in the area and stopped by to say hello.

15 Our conversation regarding this case was limited
16 primarily to his disagreement with the Court of Appeals
17 decision in the DiPippo case involving third party
18 culpability evidence.

19 The majority of our conversation was just catching
20 up personally with each other about those situations and
21 what we were doing.

22 We can address this further on Tuesday. I just
23 wanted to make sure everything was on the record so that if
24 something should come to mind over the weekend, feel free to
25 e-mail me. I'm used to it.

1 MR. GLASSER: Judge, we would ask, and I don't know
2 the Court's practice, but in light of Mr. Ferrante's e-mail,
3 I would ask that we find his availability and if the Court
4 would require Mr. Santoro to take the Fifth in front of you,
5 your Honor, I would ask that we do that as soon as possible,
6 perhaps even Tuesday morning, outside the presence of the
7 jury, of course.

8 THE COURT: Mr. Ferrante said at the present time,
9 I'm going to ask for some clarification as to what that
10 means and I will also check regarding Mr. Ferrante's
11 availability. Obviously, I will include all members of
12 counsel in that e-mail communication.

13 MR. GLASSER: Thank you.

14 MS. NEWIRTH: Thank you, your Honor.

15 (Proceedings were adjourned to February 14, 2023.)

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